

Message Text

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ACTION ARA-20

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COME-00 DODE-00 EB-11 FEAE-00 FPC-01 H-03 INR-11

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SCI-06 SP-03 SS-20 STR-08 TRSE-00 FRB-03 PA-04 PRS-01

USIE-00 OPIC-12 SSO-00 NSCE-00 INRE-00 ARAE-00 DRC-01

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FM AMEMBASSY QUITO

TO SECSTATE WASHDC IMMEDIATE 2051

INFO AMCONSUL GUAYAQUIL

C O N F I D E N T I A L QUITO 5248

E.O. 11652: N/A

TAGS: ENRG EC EINV

SUBJECT: PETROLEUM: ADA CASE

REF: A. QUITO 5170

B. QUITO 5171

C. STATE 173118

1. I MET WITH ACTING FONMIN VALDEZ AT 5:00 P.M. AUGUST 8. AFTER EXCHANGE OF PLEASANTRIES, I TOLD HIM THAT THE EMBASSY AND THE DEPARTMENT HAD BEEN FOLLOWING THE ADA CASE WITH INTEREST. IT WAS OUR STRONG DESIRE AND HOPE THAT THE GOE AND ADA WOULD ARRIVE AT AN AGREEMENT. I NOTED THAT THE TALKS WHICH HAD TAKEN PLACE BETWEEN THE GOE AND ADA SINCE THE NOVEMBER 1972 DECREE HAD OCCURRED IN WHAT I HAD UNDERSTOOD TO BE A GOOD ATMOSPHERE. RECENTLY, HOWEVER, WITH THE DECISION OF THE GOE NOT TO ENTER INTO ANOTHER CONTRACT WITH ADA, EVENTS HAD TAKEN A NEW TURN. I ASKED VALDEZ IF HE WOULD INFORM ME ABOUT THE STATUS OF THE ADA CASE AND
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SPECIFICALLY ABOUT THE COMMISSION WHICH I UNDERSTOOD HAD

BEEN FORMED TO CONSIDER IT.

2. VALDEZ REPLIED THAT THE COMMISSION HAD BEEN SET UP AT THE DIRECTION OF THE PRESIDENT. HE LISTED ITS MEMBERS (SEE REF B). IT HAD HELD TWO MEETINGS. FONMIN LUCIO PAREDES HAD ATTENDED THE FIRST REPRESENTING THE MINISTRY; HE (VALDEZ) HAD ATTENDED THE SECOND. IN ACCORDANCE WITH THE DECISION AND INSTRUCTIONS OF THE PRESIDENT, VALDEZ CONTINUED, THE COMMISSION WAS TO DECIDE ON COMPENSATION TO ADA FOR "USEFUL INVESTMENTS" ("INVERSIONES UTILES"). HE ADDED THAT THIS WAS NOT "EXPROPRIATION" AND IT WAS NOT "CONFISCATION". HE QUOTED THE PRESIDENT TO THE EFFECT THAT THE ECUADOREAN STATE WOULD PAY FOR THE INVESTMENTS MADE BY ADA. IN THE FIRST MEETING OF THE COMMISSION, HE WENT ON, THE FOREIGN MINISTER HAD STRONGLY ENDORSED THE PRESIDENT'S POSITION OF COMPENSATION, SAYING IT WAS NECESSARY TO MAINTAIN THE GOOD INTERNATIONAL STANDING OF ECUADOR. FINANCE MINISTER MONCAYO HAD TAKEN A SIMILAR STAND. VALDEZ GAVE ME CATEGORICAL ASSURANCE THAT THE POSITION OF THE PRESIDENT AND OF THE COMMISSION WAS TO COMPENSATE ADA FOR "USEFUL INVESTMENTS".

3. I ASKED THE ACTING FOREIGN MINISTER WHETHER THE FACT THAT ADA WAS TO BE COMPENSATED FOR ITS INVESTMENTS HAD BEEN MADE CLEAR TO THE ADA REPRESENTATIVES IN THE MEETING THE COMMISSION HAD HAD WITH THEM ON AUGUST 5, AND HE REPLIED IN THE AFFIRMATIVE. HE SAID THAT THE ADA REPRESENTATIVES HAD EXHIBITED SOME CONCERN ABOUT WHAT INVESTMENTS WOULD BE COMPENSATED, AND STATED THEY RAISED AS AN EXAMPLE THE FACT THAT IF THEY HAD DRILLED SIX WELLS OF WHICH FOUR WERE PRODUCERS AND TWO DRY, WOULD THEY BE COMPENSATED FOR THE INVESTMENT IN DRILLING THE TWO NON-PRODUCTIVE WELLS? CITING ANOTHER EXAMPLE, VALDEZ SAID THE COMPANY SHOWED IN THE AUDIT PREPARED FOR IT BY AN AMERICAN FIRM (I.E., ARTHUR ANDERSEN & CO.) A SUM FOR "INTANGIBLE EXPENSES". THE ACTING FONMIN SAID THAT THESE ISSUES WOULD HAVE TO BE DECIDED DURING THE COURSE OF THE COMMISSION'S WORK, BUT STATED THAT HE REGARDED THEM AS "SUPERABLE". AT THIS JUNCTURE I MENTIONED THAT THE FIGURE OF \$26 MILLION HAD BEEN USED PUBLICLY TO CHARACTER-

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IZE THE VALUE OF ADA'S INVESTMENT. VALDEZ ACKNOWLEDGED THAT THIS FIGURE HAD INDEED BEEN CITED IN PRESS INFORMATION PUT OUT BY THE OFFICE OF THE SECRETARY GENERAL OF ADMINISTRATION, BUT SAID THAT THE COMMISSION WOULD HAVE TO DECIDE WHAT THE FIGURE WAS. HE ADDED THAT THE AUDIT PREPARED FOR THE COMPANY WOULD BE TAKEN INTO CONSIDERATION. (ARTHUR ANDERSEN & CO. AUDIT FOLLOWS BY SEPTTEL.)

4. IN A BRIEF REFERENCE TO THE BIDDING, VALDEZ SAID THAT HE EXPECTED THE GOE WOULD REQUIRE THAT COMPANIES BIDDING ON THE EX-ADA CONCESSION (SO-CALLED "LOT 11") WOULD HAVE TO PUT DOWN A CHECK TO SHOW THEIR GOOD FAITH. WHILE THIS PRESENTED CERTAIN (UNSPECIFIED) PROBLEMS IN DRAWING UP THE BASES FOR THE BIDS, HE SAID HE BELIEVED THEY COULD BE SOLVED.

5. IN CONCLUDING OUR DISCUSSION. VALDEZ ARENEWED HIS CATEGORIC ASSURANCES THAT THE GOVERNMENT OF ECUADOR HAD DECIDED ON AND WAS PREPARED TO PAY COMPENSATION TO ADA FOR ITS "USEFUL INVESTMENTS". HE CHARACTERIZED THIS AS A "DEFINITIVE DECISION".

6. COMMENT: I CREDIT VALDEZ' ASSURANCES THAT THE GOE AT THE HIGHEST LEVEL HAS DETERMINED TO COMPENSATE THE ADA CONSORTIUM AND VIEW THE ESTABLISHMENT OF THE HIGH LEVEL COMMISSION AS AN ACT OF GOOD FAITH TOWARD THAT END. MOREOVER, VALDEZ' ASSURANCES ARE CONSISTENT WITH OTHER ASSURANCES WE HAVE RECEIVED AND REPORTED AND WITH THE PRESS TREATMENT OF THE SUBJECT IN THE RECENT PAST (QUITO 5104). THEY REINFORCE OUR INTERPRETATION OF THE THRUST OF THE GOE'S LETTER OF GUIDANCE TO ITS HIGH LEVEL COMMISSION. FOR EXAMPLE, THE LETTER CONTAINS A PRESIDENTIAL SUGGESTION THAT SEPARATE BIDDING BASES BE DETERMINED FOR BLOCK 11 (FORMER ADA CONCESSION) AND STATES THAT WINNING BIDDER ON THAT BLOCK WILL HAVE TO DEAL WITH GOE OVER PAST WORKS THAT WOULD BE OF SUBSEQUENT UTILITY. AS NOTED ABOVE, VALDEZ TOLD ME THAT THERE WILL PROBABLY BE A REQUIREMENT THAT THE BIDDER DEPOSIT A CHECK FOR THESE WORKS. I HAVE NO GROUNDS FOR DOUBTING THAT ANY SUCH SUM WOULD BE DESTINED TO COMPENSATE ADA.

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7. I HENCE THAT THE GOE COMMITMENT TO COMPENSATION TO BE A FACT AND RELIABLY BASED ON A PRESIDENTIAL DECISION. IT WOULD, IN MY VIEW, BE FOLLY FOR ADA PRINCIPALS TO OVER-REACT BY PUTTING PRESSURE ON OTHER POTENTIAL BIDDERS AND ATTEMPTING TO INTERFERE WITH ECUADOR'S PROSPECTS FOR SUBSEQUENT DEVELOPMENT OF ITS RESOURCES IN THE GULF OF GUAYAQUIL. SUCH ACTIONS COULD WELL DIVERT THE GOE FROM ITS PRESENT COMMITMENT TO COMPENSATION. IN THE GOE'S EYES SUCH ACTIONS BY ADA WOULD NOT ONLY JUSTIFY A POLICY RECERSAL; THEY MIGHT REQUIRE ONE.

8. THE STRONG ADVEESE REACTION OF ADA TO FIRST KNOWLEDGE OF AND EXPOSURE TO THE HIGH LEVEL COMMISSION SEEMS TO BE BASED ON THREE THINGS:

A. COMPLETELY UNDERSTANDABLE FRUSTRATION THAT AFTER ALMOST TWO YEARS OF EFFORT WHICH APPEARED UNTIL RECENTLY TO BE ABOUT TO BE SUCCESSFUL EVENTS SHOULD HAVE TAKEN THIS UNEXPECTED TURN.

B. GOE HAS PUT ITS OWN COMMISSION IN CHARGE OF DETERMINING MANNER AND AMOUNT OF COMPENSATION FOR ADA; ADA WOULD UNDOUBTEDLY HAVE PREFERRED TO DETERMINE THESE MATTERS.

C. THE TERM "USEFUL INVESTMENTS", EMPLOYED BY VALDEZ, AND SIMILAR TERMS APPEARING IN THE LETTER OF INSTRUCTIONS TO THE COMMISSION, CAUSE ADA CONCERN. I UNDERSTAND WHY, BUT THE GOE VIEWS CAN BE DEDUCED FROM THE FACT THAT THE ANDERSENT AUDIT OF ITS INVESTMENT SHOWS \$14,882,887.34 (I.E., MORE THAN HALF OF ITS STATED INVESTMENT) AS "INTANGIBLE EXPENSES" IN WORK ON TEN WELL LOCATIONS. THE COMMISSION WILL BE SEEKING AN EXPLANATION OF THE CONTENT OF ADA'S CLAIMED EXPENDITURES AND WILL UNDOUBTEDLY DISALLOW CERTAIN ITEMS.

9. RECOMMENDATION: I BELIEVE THE URGENT NEXT STEP IS FOR THE DEPARTMENT TO IMPRESS UPON ADA PRINCIPALS THE IMPRUDENCE OF EMBARKING UPON A COURSE OF OBSTRUCTION AND TO EXPLAIN THE DIFFICULT SITUATION THIS WOULD CREATE FOR THE USG IN HELPING TO HOLD THE GOE TO ITS COMMITMENT TO CONFIDENTIAL

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COMPENSATION. AMONG OTHER THINGS, SUCH ACTION NOW BY ADA WOULD PREJUDICE AN ATTEMPT TO USE OUR GOOD OFFICES OR INFLUENCE. I BELIEVE THE DEPARTMENT SHOULD URGE THE ADA PRINCIPALS TO DESIGNATE AND PROMPTLY SEND A NEGOTIATOR OR NEGOTIATORS EMPOWERED TO DEAL SERIOUSLY WITH THE COMMISSION. I DO NOT MINIMIZE THE DIFFICULT TASK AHEAD OF ADA IN NEGOTIATING COMPENSATION THAT IT WILL REGARD AS SATISFACTORY, BUT I AM CONVINCED OF THE GOE'S PRESENT COMMITMENT TO COMPENSATION. OUR COURSE NOW SHOULD BE TO GET ADA AND THE GOE COMMISSION PROMPTLY TOGETHER AGAIN TO DISCUSS COMPENSATION.
BREWSTER

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